

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: June 20

Applicant: D.R. HORTON, INC. Phone #: 678.634.1682
(applicant's name printed)

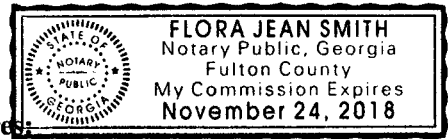
Address: 8800 ROSWELL RD., SUITE 100 E-Mail: CCOLE@DRHORTON.COM

J. CHRIS COLE Address: SAME
(representative's name, printed)

J.C. Cole Phone #: 678.634.1682 E-Mail: ccole@DRHORTON.COM
(representative's signature)

Signed, sealed and delivered in presence of:

Flora Jean Smith My commission expires: _____
Notary Public



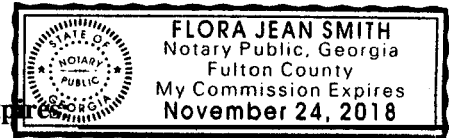
Titleholder(s): D.R. HORTON, INC. Phone #: 678.634.1682
(property owner's name printed)

Address: _____ E-Mail: CCOLE@DRHORTON.COM

[Signature], V.P. & Mgr
(Property owner's signature)

Signed, sealed and delivered in presence of:

Flora Jean Smith My commission expires: _____
Notary Public



Commission District: 4 Zoning Case: Z-210 ('05)

Size of property in acres: 8.85 Original Date of Hearing: March 21, 2006

Location: Apple Orchard Way
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 88 District(s): 18th

State specifically the need or reason(s) for Other Business: _____

SEE ATTACHED

Application for "Other Business"...continued

Maxham Farms Phase 2

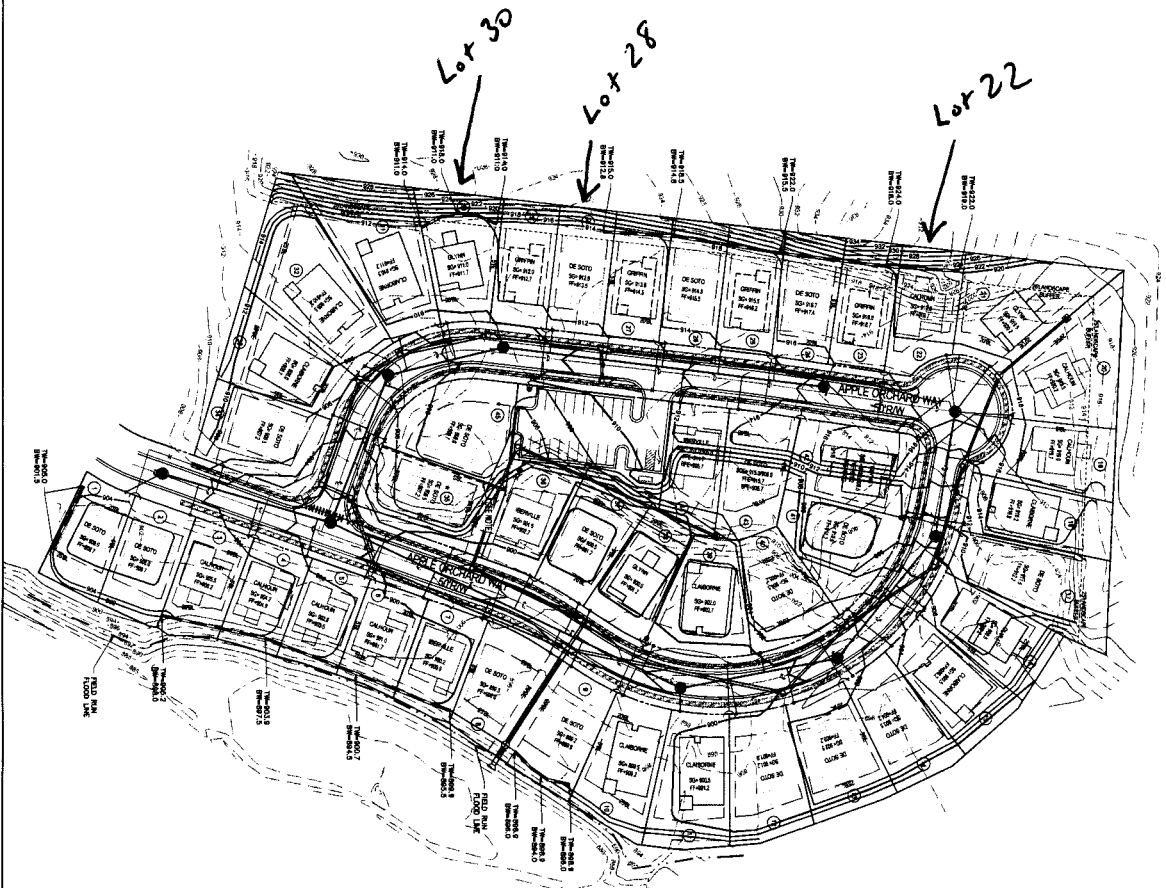
State specifically the need or reason(s) for the Other Business:

D.R. Horton, Inc. (Horton) hereby submits this request for other "Other Business" to consider allowing a modular stone retaining wall be constructed within the 25' landscape buffer. This is need is based on a topographic challenge that is prohibiting the construction of a residential home based on the highest and best use for the local market. Without the wall a smaller sized home would be needed that would not be in keeping with the rest of the community.

The subject wall shall be placed in a location that was previously disturbed prior to Horton's purchase and an LDP was re-permitted to grade and replant the area by our Seller. In the design of the lots it was determined the necessary grade to achieve a building area sufficient to maintain our larger product type would necessitate the need for a wall in the rear yards of (8) lots. The wall itself will be constructed of modular stone blocks of varying colors to break up the monotony seen in typical modular block walls and will vary in height from 0'-8' tall.

The current landscape requirements will be maintained and as an added measure we have proposed to increase the landscape buffer to 26', as measured from the exterior property line.

08-024-2017
 proposed site plan
 Retaining wall on
 Lots 22-28, 30.



NOTE:
 CONTRACTOR TO VERIFY ALL DIMENSIONS
 AND CONDITIONS ON SITE PRIOR TO
 CONSTRUCTION.

08/27/11 Summary
 DATE: 08/27/11
 DRAWN BY: [unintelligible]
 CHECKED BY: [unintelligible]
 SCALE: 1/8" = 1'-0"

* ORIGINAL LOT LINE BETWEEN
 LOTS 35 & 45 HAS BEEN MOVED 1.5'
 TO ACCOMMODATE A FIT FOR LOT 35

GRAPHIC SCALE
 1" = 50 FT.



NO.	DESCRIPTION
1	EXISTING
2	PROPOSED
3	REMOVED

WATTS & BROWN ENGINEERS, INC.
 CIVIL ENGINEERS & LAND SURVEYORS
 1100 BELLS FERRY ROAD
 SUITE 200
 FARMINGTON, GA 30629
 PHONE: 770-821-3129
 FAX: 770-821-3128
 WWW.WATTS-AND-BROWN.COM

COBB COUNTY
 08-024-17

LOT FIT EXHIBIT FOR
DR HORTON
 MAXHAM FARM~PHASE 2
 LOCATED IN
 LAND LOT 87
 18TH DISTRICT, 2ND SECTION
 COBB COUNTY, GEORGIA

ORIGINAL DATE OF APPLICATION: 12-20-05APPLICANTS NAME: W & H PROPERTIES, LLC

THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 03-21-06 ZONING HEARING:

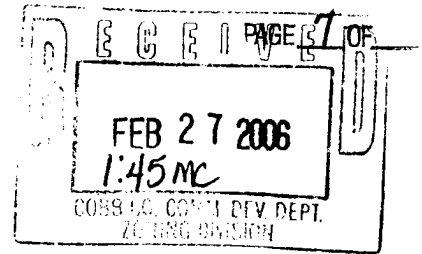
W & H PROPERTIES, LLC (Dannette M. Cantrell and William D. Maxham, owners) requesting Rezoning from **R-20** to **RA-5** and **RM-8** for the purpose of a Subdivision in Land Lots 87 and 88 of the 18th District. Located on the east side of Maxham Road, south of Veterans Memorial Highway.

MOTION: Motion by Goreham, second by Lee, as part of the Consent Agenda, to **approve** rezoning to the **RA-5 (detached)** and **RM-8 (detached)** zoning districts **subject to:**

- **final site plan to be approved by District Commissioner**
- **letter of agreeable stipulations from Mr. Garvis Sams, Jr., dated February 27, 2006 (copy attached and made a part of these minutes)**
- **Fire Department comments**
- **Historic Preservation comments**
- **Water and Sewer Division comments and recommendations**
- **Stormwater Management Division comments and recommendations**
- **Cobb DOT comments and recommendations**
- **owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns**

VOTE: **ADOPTED** unanimously

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448



GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI*
MELISSA P. HAISTEN
OF COUNSEL
DAVID P. HARTIN

770-422-7016

TELEPHONE

770-426-6583

FACSIMILE

WWW.SAMSLARKINHUFF.COM

February 27, 2006

*ALSO LICENSED TO PRACTICE
IN ALABAMA

VIA HAND DELIVERY

Min. Bk. 40 Petition No. Z-210⁰⁵
Doc. Type Letter of Agreeable
Stipulations
Meeting Date 3/2/06

Mr. John P. Pederson, Planner III
Cobb County Zoning Department
191 Lawrence Street, Suite 300
Marietta, Georgia 30060-1661

Re: Application of W&H Properties, LLC to Rezone a 53.6 Acre Tract
from R-20 to RA-5 & RM-8 (No. Z-210)

Dear John:

As you know, this firm represents the applicant and property owners concerning the above-captioned application for rezoning. The application was previously continued by staff pending approval by the Cobb County Historic Preservation Commission ("CCHPC") of a Certificate of Appropriateness which has now been granted. The application is scheduled to be heard and considered next month before the Planning Commission on March 7, 2006 and, thereafter, is scheduled to be heard for final action by the Board of Commissioners on March 21, 2006.

With respect to the foregoing and consistent with the dialogue established with the County's professional staff, area residents and the CCHPC, the balance of this letter will serve as my clients' agreement with the following revised stipulations which shall become conditions and a part of the grant of the requested rezoning, as amended and modified hereby, and binding upon the subject property thereafter:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place with respect to the subject property.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

Petition No. Z-210⁰⁵
Meeting Date 3/21/06
Continued

VIA HAND DELIVERY

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Cobb County Zoning Department
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2. The rezoning of the subject property shall be from R-20 to RA-5 & RM-8 consistent with that certain revised site plan prepared by DGM Land Planning Consultants which was submitted on January 25, 1006. All of the homes which will be constructed on the subject property will be single-family detached homes.
3. A maximum number of one-hundred thirty-four (134) homes at a maximum density of 3.54 homes per acre.
4. Homes shall range from size from a minimum of 1,800 sq. ft. to 2,400 sq. ft. and possibly greater. Each home shall have a two-car attached garage.¹
5. The architectural style of the homes shall be traditional with the composition of said homes consisting of a mixture of brick, stone, cedar shake and a selection of siding finishes.
6. An agreement to the recordation and enforcement of Declaration of Covenants, Conditions and Restrictions for the proposed residential community which shall contain rules and regulations applicable to the entire community, including strict architectural controls.
7. An agreement that the homes throughout the entirety of the residential community shall be "for sale" only with an agreement that any subsequent leasing of the homes after their respective original purchases shall be limited to no more than ten percent (10%) of the total number of homes and for no lease term less than one (1) year in duration. These provisions shall be included as specific recitals in the Declaration of Covenants, Conditions and Restrictions as referred into the preceding paragraph.
8. The creation of a mandatory Homeowners Association which shall be responsible for the upkeep and maintenance of all common/open space areas, landscaped areas, amenity areas, fences and lighting.
9. A Third Party Management Company shall be hired to manage the day-to-day operations of the Homeowners Association, including the responsibility for all commonly owned properties and amenities within the subject property. The Third Party Management Company shall also be responsible for the management of all Association monies as well as ensuring that the Association is properly insured.

¹ Price points will range from the mid-200's to the low-300's.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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10. All common/open space, recreational areas, buffer areas and setbacks may be penetrated for the purposes of access, utilities, fences, ingress/egress and stormwater management issues.
11. Subject to recommendations from the Cobb County Stormwater Management Division with respect to stormwater, on-site detention, hydrology and downstream considerations, including the following:²
 - a. Limiting the grading on the site to the house pads, rights-of-ways, front yards and required slopes.
 - b. The voluntary donation and conveyance of seventy-five foot (75') stream bank buffers on either side of the stream (Buttermilk Creek) as a restrictive easement in favor of Cobb County so that said buffers shall remain undisturbed in perpetuity.
 - c. Open space (approximately 13.2 acres) shall be placed in a conservation easement in favor of Cobb County.³
12. Compliance with the following recommendations from the Cobb County Department of Transportation regarding traffic/transportational issues:⁴
 - a. Dependent upon the ultimate positioning of the point of ingress/egress for the subdivision, the installation of a deceleration lane with an appropriate taper.
 - b. In view of the fact that Maxham Road is classified as an arterial, ensuring 475' of sight distance or the implementation of remedial measures in which to mitigate same.

² The Stormwater Management Division has indicated that the subject property is a potential candidate for a "fee in lieu" stormwater scenario as opposed to traditional stormwater/water quality approaches.

³ This open space acreage figure may change during Plan Review.

⁴ The original stipulations provided for additional right-of-way and the installation of sidewalk, curb and gutter along Maxham Road. Those stipulations/conditions have been obviated by action and recommendations of the CCHPC.

SAMS, LARKIN & HUFF
A LIMITED LIABILITY PARTNERSHIP

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Continued

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13. Compliance with recommendations from Cobb County's Historic Preservation Planner and the CCHPC regarding the Israel Causey-Maxham house which shall remain situated on a 5.42 acre tract with the Maxham Family retaining the ownership of same and including, but not necessarily limited to, the following:
 - a. Compliance with recommendations from Cobb County's Historic Preservation Planner and the CCHPC regarding the Israel Causey-Maxham House which shall remain situated on a 5.42 acre tract with the Maxham family descendants retaining ownership of same.
 - b. The proposed residential development, if the rezoning for same is approved by the Cobb County Board of Commissioners, shall be configured and situated as shown on that certain revised site plan being submitted contemporaneously herewith.
 - c. The erection of protective fencing around the 5.42 acre tract during construction. Additionally, the erection of similarly positioned permanent fencing if such is ultimately the desire of CCHPC.
 - d. The establishment of a 25' landscape buffer on those lots within the proposed residential community which are in direct contiguity to the 5.42 acre tract upon which the Israel Causey-Maxham house and its outbuildings are situated.
 - e. Following recommendations from Cobb County's Historic Preservation Planner and/or the CCHPC with respect to historic/interpretative/educational signage regarding the Israel Causey-Maxham House. The content, placement and configuration of said signage and markers (if any) shall be subject to CCHPC review and approval.
14. Compliance with recommendations from the Cobb County Water System with respect to the availability and accessibility of water and sewer.
15. Compliance with recommendations from the Cobb County Fire Department contained within the Zoning Analysis.

VIA HAND DELIVERY

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16. The submission of a landscape plan during the Plan Review process which will be subject to review and approval by the Community Development Department and/or the County Arborist, including the following:
 - a. The front and side yards of all homes shall be sodded and irrigated where appropriate.
 - b. Subdivision entry signage shall be ground-based, monument-style, fully irrigated and incorporated into the landscape plan which shall be submitted for staff review and approval.
 - c. Compliance with the agreement between the applicant and adjoining property owner Glenn Hammonds as follows:
 - i. The 10' landscape buffer along the southern boundary line of the subject property as it relates to Mr. Hammonds' property shall be increased to a 25' landscape buffer.
 - ii. The developer shall erect a 6' wooden privacy fence along the common property line which will extend to the westernmost point where Tax Parcel 33 in Land Lot 146 of the 18th District, Cobb County, Georgia, adjoins the proposed residential development. Said fence shall be erected prior to the construction of any homes within that area of the subject property and the forward facing side of the fence shall face Mr. Hammonds' property.
 - iii. The developer shall plant evergreen species as directed by the Cobb County Arborist along the common property line between the subject property and Mr. Hammonds' property.
17. The granting of contemporaneous Variances with respect to the lots as shown on the revised site plan.⁵
18. Modifications to these stipulations or the site plan shall be approved by the District Commissioner as needed or necessary during the Plan Review process.

⁵ Lot sizes for residential community average 11,039 sq. ft. which exceed the 7,000 sq. ft. minimum requirement under the RA-5 district.

VIA HAND DELIVERY

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Please do not hesitate to call should you or the staff require any further information or documentation prior to the application's next appearance before the Planning Commission and Board of Commissioners.

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.

gsams@samstarkinhuff.com

GLSjr/jbmc

- cc: Members, Cobb County Board of Commissioners (via hand delivery)
Members, Cobb County Planning Commission (via hand delivery c/o John P. Pederson)
Mr. Robert L. Hosack, Jr., AICP, Director (via hand delivery)
Mr. Mark A. Danneman, Manager (via hand delivery)
Mr. John Nash, Chairman, CCHPC
Ms. Kimberly Sawyer, Historic Preservation Planner (via hand delivery)
Ms. Gail K. Huff, Assistant County Clerk (via hand delivery)
Ms. Sandra Richardson, Deputy County Clerk (via hand delivery)
Ms. Clarice Barber-Page, President, SWAN
Mr. William H. "Skip" Harper, Jr.

Preliminary Plan

Maxham Road

Cobb County, Georgia Land Lots 87 and 88, 18th District, 2nd Section

prepared for:

W&H Properties, LLC



DGM
LAW PLANNING
CONSULTANTS



975 Cam Plus
Kennesaw, GA 30144
770 514-9008
Fax 514-9491



October 5, 2005

NO.	DATE	REVISIONS

Site Data

Total Site Area: 50.2 AC
(15.7 AC in floodplain)

Total Lots Shown: 140

Net Density: 4.05 UN/AC

Present Zoning: R-20

Proposed Zoning: RM-8 and RA-5

Parcel A

Single-Family Community

Total Site Area: 30.2 AC
(14.4 AC in floodplain)

Total Lots Shown: 67

Net Density: 4.27 UN/AC

Proposed Zoning: RM-8

Minimum Lot Size: 5,750 SF*

Average Lot Size: 8,958 SF

Min. Lot Width at B.L.: 50'*

Building Setbacks:
front: 20'
rear: 25'
side: 5' (15' between houses)

(*denotes variances requested)

Parcel B

Single-Family Community

Total Site Area: 20.0 AC
(1.3 AC in floodplain)

Total Lots Shown: 73

Net Density: 3.88 UN/AC

Proposed Zoning: RA-5

Minimum Lot Size: 5,750 SF*

Average Lot Size: 10,009 SF

Min. Lot Width at B.L.: 50'*

Building Setbacks:
front: 20'
rear: 25'
side: 5' (15' between houses)

(*denotes variances requested)

NOV - 3 2005
3:03 PM
COBB CO. COMMUNITY DEPT.
ZONING DIVISION

Notes:

- Boundary survey and topographic information by Kewson Vicksy.
- According to Flood Insurance Rate Map (FIRM) #1300540005C and #13067C00205F, August 18, 1995, a portion of this site contains floodplain.
- No cemeteries are known to exist on site.
- Stream and wetland classifications are to be determined.
- No archeological or architectural landmarks are known to exist on site.
- No utility assessments are known to exist on site.
- Stormwater accommodation will be contained within floodplain. Water quality structures are to be provided as required based on hydrologic study.

